

JUDGE PRESKA

UNITED STATES DISTRICT COURT FOR THE
SOUTHERN DISTRICT OF NEW YORK

Philip A. Natale
185 Carleton Dr. East
Shirley, NY 11967.
Plaintiff.

vs.

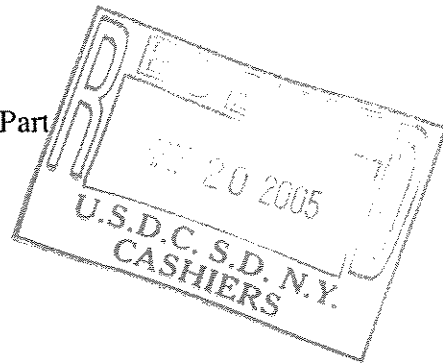
Savasta and Company, Inc.
1 Dag Hammarskjold Plaza
New York, NY 10017.
Defendant.

05 CV 4873
No.

(SCNY 2044/05-1 6/14)

To: Civil Court of the City of New York, Small Claims Part
111 Centre Street, Room 325
New York, NY 10013-4389

Plaintiff Philip A. Natale
185 Carleton Dr. East
Shirley, NY 11967



NOTICE OF REMOVAL

Defendant Savasta and Company, Inc. ("Savasta"), through its counsel, removes this action pursuant to Sections 1441 and 1449 of Title 28 of the United States Code.

Plaintiff Philip A. Natale filed a claim against Defendant Savasta in the Civil Court of the City of New York. The Notice of Claim, which was served upon the Defendant on May 12, 2005, asserts an "action recover monies arising out of nonpayment of insurance claim." (A copy of the Notice of Claim is attached hereto.)

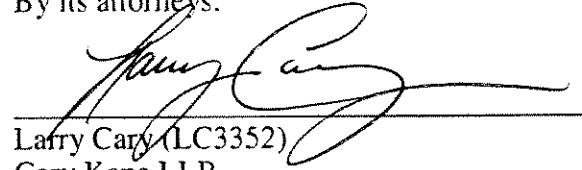
Defendant Savasta is the third-party administrator of the Local 295/Local 851 I.B.T. Employer Group Welfare Trust Fund (the "Fund"). which is a multiemployer employee benefit plan governed by the Employee Retirement Income Security Act of 1974, as amended ("ERISA"), 29 U.S.C. § 1001 et seq. The Plaintiff's claim concerns a claim for benefits from the Fund, which is governed by ERISA.

05 MAY 20 PM 12:17
CIVIL COURT
NEW YORK COUNTY

This action is removed to federal court under Section 1441(a) of Title 28 of the U.S. Code because it concerns a federal question under Section 1331 of Title 28 of the U.S. Code.

DATED: May 20, 2005

SAVASTA AND COMPANY, INC.,
By its attorneys.



Larry Cary (LC3352)
Cary Kane LLP
1350 Broadway, Suite 815
New York, NY 10018
(212) 868-6300

CIVIL COURT OF THE CITY OF NEW YORK	
SMALL CLAIMS PART	
111 CENTRE STREET - RM. 325 NEW YORK, NY 10013-4389	
1. Article assigned to:	SCNY 2044/05-1
2. Article Number	7178 8518 8010 2047 8348

NOTICE OF CLAIM \$5000.00

The Claimant asks judgment in this court for together with interest and disbursements, on the following claim:

ACTION TO RECOVER DAMAGES ARISING OUT OF BREACH OF INSURANCE CLAIM

DATE OF OCCURRENCE: 05-10-2003

CV-SC-53 Part (1/03)

NOTICE TO DEFENDANT	NOTICE OF CLAIM and SUMMONS TO APPEAR
This is the start of a lawsuit against you. It should not be ignored. Your default may have serious consequences. YOU MUST BRING THIS NOTICE WITH YOU EACH TIME YOU APPEAR IN COURT ON THIS CASE.	
SUMMONS TO APPEAR	This claim is scheduled for a Hearing to be held in the Courtroom:
111 Centre Street (Room 353) New York, New York 10013 On Tuesday, June 14, 2005 at 6:10 PM	
You, or someone authorized to represent you, must appear and present your defense at the Hearing. If you wish, you may retain the services of an attorney to represent you at your own expense. IF YOU FAIL TO APPEAR, JUDGMENT WILL BE ENTERED AGAINST YOU BY DEFAULT. EVEN THOUGH YOU MAY HAVE A VALID DEFENSE. Only the Judge presiding at the Hearing can grant adjournment. The Clerk cannot grant any change in the scheduled date or time.	
DATED May 6, 2005	CHIEF CLERK JACK BAER

CASE TYPE SMALL CLAIM	CLAIMANT
SMALL CLAIM	PHILIP A NATALE 185 CARLETON DR. EAST SHIRLEY, NY 11967
INDEX NUMBER	DEPENDANT
SCNY 2044/05-1 6/14	SAVASTA AND COMPANY INC. C/O LINDA KELLNER 1 DAG HAMMARSKJOLD PLAZA NEW YORK CITY, NY 10017

A Guide to Small Claims Court is available at the court listed above

ESTA INFORMACIÓN ESTÁ DISPONIBLE EN ESPAÑOL EN LA CORTE

THIS IS THE START OF A LAWSUIT AGAINST YOU. THE INFORMATION PROVIDED WILL ASSIST YOU IN DEFENSE OF THE LAWSUIT.

BEFORE THE HEARING

If this case involves damage to an automobile or other property covered by insurance, notify your insurance company of this Hearing. The insurance companies will often assign an attorney representative to be present at the Hearing at no cost to you if they are made aware of the case by the policy holder.

COUNTERCLAIM AND THIRD-PARTY CLAIMS

If you have a claim against the Claimant, you may bring a "Counterclaim" as part of this lawsuit. For money only, up to \$3,000. Within five (5) days of receiving this Notice of Claim, you should file a statement containing such Counterclaim with the Court. At the time you file such Counterclaim you must pay the Clerk a filing fee of \$3,000 plus the cost of postage. The Clerk will send the notice of your Counterclaim by First Class mail to the Claimant. The Counterclaim must include the amount of your claim and an explanation of the nature of your claim. You should be prepared to prove your Counterclaim on the day you come to Court for the Hearing.

If you fail to file the Counterclaim within the five (5) day period mentioned above, the law provides you with the right, nevertheless, to file your Counterclaim with the Clerk at least five (5) days before the scheduled hearing date. You may also give notice of your Counterclaim to the Court at the time of the Hearing. If you present your Counterclaim at this time, the Claimant may request and obtain an adjournment (postponement) of the hearing to a later date.

If you believe that a third party bears full or partial responsibility for the claim, you may be able to bring that party into the lawsuit as a "Third Party Defendant." Contact the Clerk promptly for information about filing a "third-party action."

JURY TRIAL

If you desire a jury, you must, at least one day before the day upon which you have been notified to appear, file with the Clerk of the Court a written demand for a trial by jury. At that time, you will have to make an affidavit specifying the issues of fact which you desire to have tried by a jury and stating that such trial is desired and demanded in good faith. You will have to pay a jury fee and also file an undertaking (a deposit in cash) to secure the payment of any costs that may be awarded against you. Under the law the court may award additional costs to the Claimant if you demand a jury trial and a verdict is rendered against you.

DEMAND LETTER

If this case is a "Consumer Transaction," you should have received a letter from the Claimant demanding payment. 10 days to 6 months prior to your receipt of this Notice of Claim. If you did not get such a letter, notify the Court at the time of your appearance.

SETTLEMENT

If you admit the claim:

a) and you are able to work out a settlement with the Claimant, a written agreement (Stipulation of Settlement) should be filed with the Court. This may be done on or before the date set for the Hearing. The document provided to the Court must include the SC number of your case, and the year.

b) but desire more time to pay and the Claimant is not willing to accept your plan for payment you must appear personally on the date set for the Hearing, tell the Court that you desire time to pay, and provide your reason(s) for desiring time to pay. At that time, with the aid of the Court, you may be able to reach agreement with the Claimant and enter into a written Stipulation of Settlement.

If neither side appears in Court on the date scheduled for the Hearing, the case will be marked "DISMISSED, No Appearance Either Side."

CIV. SC. 23. Reviser: Richard G. Gish

JUDGES AND ARBITRATORS

The Judge can only try a limited number of cases in each Court session. Most Trials are held before Arbitrators who are volunteer attorneys with at least five years of experience and thoroughly knowledgeable in the law. The decision of a Judge is subject to appeal. No appeal of an Arbitrator's decision is permitted because there is no official court transcript of Hearings held before Arbitrators.

INSTRUCTIONS FOR ANSWERING THE CALENDAR CALL

IF YOU ARE READY FOR TRIAL AND YOU ARE WILLING TO HAVE YOUR CASE HEARD BY AN ARBITRATOR. ANSWER: YOUR NAME, READY
 IF YOU WISH TO REQUEST A POSTJUDGMENT OR TO CHANGE THE APPLICANT OR TO ADD A COUNTERCLAIM ANSWER: YOUR NAME, APPLICATION
 IF YOU ARE READY FOR TRIAL, BUT YOU ARE NOT WILLING TO HAVE YOUR CASE HEARD BY AN ARBITRATOR AND YOU ARE REQUESTING THAT THE CASE BE HEARD BY THE JUDGE ANSWER: YOUR NAME, READY BY THE COURT
 IF YOU REQUEST YOUR CASE "BY THE COURT" IT IS QUITE POSSIBLE THAT YOU WILL HAVE TO RETURN FOR TRIAL ON ANOTHER DATE.

RESULTS OF THIS ACTION

If a Judgment is recovered against you, the law gives the Claimant certain rights to collect the Judgment:

- If you do not pay the judgment within thirty (30) days, the Marshal in Sherrill may execute against your property. This means that the Marshal or Sheriff can seize certain of your property and sell it to satisfy the judgment. The Claimant can compel you to come into court and be examined under oath as to your property, bank accounts and other assets, and may obtain a restraining order tying up your bank account.
- If you work, the Marshal or Sheriff may take a portion of your salary and use it over on the Claimant until the judgment is paid.
- If the claim was based on your ownership or operation of a motor vehicle, your driver's license, another vehicle registration may be suspended.
- If you are licensed by any City or State agency, a prohibition may be filed against you for non payment of the judgment, and your license may be revoked or suspended.

Whenever a judgment has been rendered against a person, partnership, firm or corporation in either that its non legal name and that judgment has remained unpaid for thirty-five days after the judgment date has received a copy of the judgment, the judgment creditor shall be entitled to commence an action for the sum of the original judgment plus costs, reasonable attorney fees, and one hundred dollars (\$100.00). If you wish you may pick up a copy of the informational booklet, "A Guide to Small Claims" or "A Guide to Commercial Claims" at the Clerk's Office.

CIVIL 35, March 8, 2005, 05:00:11, 11:00:00

05/20/05

10:55:00

STEFANO MAJ

PROOF OF CLAIM

If you defense is supported by a written contract or agreement, account books, receipts, itemized bills marked "Paid," cancelled checks, etc., you must produce them at the Hearing. If you rely on estimates for the future cost of repair, service or replacement, two different written itemized and signed estimates of the costs to be incurred are required. If possible, merchandise that is in dispute should be brought to court. Photographs may be an acceptable alternative in certain circumstances. If you have a witness, he/she must be in court with you at the time and place indicated on this notice. You may have to pay an expert witness for his or her time. If a witness is unwilling to provide you with required evidence or to appear voluntarily, you may request the Clerk to issue a Subpoena for Records and/or a Subpoena to Testify, to compel someone to produce the records or to actually appear and testify. Subpoenas are issued by the Court without fee, but you will be required to pay a fee to the person on whom the Subpoena is served. Your request for subpoenas must be made to the Clerk before the scheduled date of the Hearing.

REQUEST FOR ADJOURNMENT (CHANGE OF TIME OR DATE OF HEARING)

Proceedings are normally scheduled in the evening unless special circumstances warrant that the Clerk schedule the case for a daytime Hearing. If the Hearing is scheduled for the evening and this time would cause an "unreasonable hardship" for you, you or your representative should appear at the scheduled time and request that the action be re-scheduled for a daytime Hearing. Only a Judge can grant an adjournment. The Clerk cannot grant any change in the scheduled date or time.

RESULT OF NON-APPEARANCE (DEFAULT)

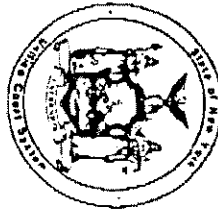
If you, the Defendant, fail to appear for a trial an Inquest may be held. At the Inquest, the Claimant must prove his/her case to the satisfaction of the Arbitrator even though the Defendant is not present. Almost all Inquests will result in a Judgment in favor of the Claimant. If the Claimant (the person who is suing) fails to appear, the case will generally be Dismissed.

DEFENDANTS WHO ARE CORPORATIONS OR VOLUNTARY ASSOCIATIONS

Corporation defendants may appear by an attorney or by any authorized officer, director, or employee of the corporation. See CPLR § 321 and CCA § 1809 (2). Voluntary Associations must appear by attorney.

[Bring this sheet with you at the time you come to Court]

ESTA INFORMACIÓN ESTÁ DISPONIBLE EN ESPAÑOL EN LA CORTE



CHARLES
OF THE CITY
OF NEW YORK
SMALL CLAIMS
JUDGE
NEW YORK, NY 10017

CERTIFIED



7178 8518 8010 2047 8348

RETURN RECEIPT REQUESTED

SCNY
2044/05-1
6/14

SAVASTA AND COMPANY INC.
C/O LINDA KELLNER
1 DAG HAMMARSKJOLD PLAZA
NEW YORK CITY, NY 10017-

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